

DECLARATION OF
[VILLAGE ON MAIN] CONDOMINIUM

TABLE OF CONTENTS

VILLAGE ON MAIN CONDOMINIUM

ARTICLE I: DEFINITIONS	1
1.1. Defined Terms.	1
ARTICLE II: DESCRIPTION AND DESIGNATION	4
2.1. Description of Buildings	4
2.2. Designation of Units.	4
2.3. Description of Units	4
2.4. Common Elements.....	6
2.5. Limited Common Elements.	6
2.6. Residential Limited Common Elements	6
2.7. Declarant's Right to Change Plans	6
ARTICLE III: ASSOCIATION OF UNIT OWNERS	7
3.1. Membership, Duties and Obligations	7
3.2. Voting Rights	7
3.3. Right to Vote.....	7
3.4. Board of Directors Review and Approval	7
ARTICLE IV: ASSESSMENT INTERESTS AND ASSESSMENT INTEREST.....	8
ARTICLE V: MAINTENANCE, ALTERATION AND IMPROVEMENT OF CONDOMINIUM.....	8
5.1. Responsibility of Unit Owners.....	8
5.2. Responsibility of Association	9
5.3. Repair and Replacement Standards	10
5.4. Alterations to Unit.....	10
5.5. Exterior Alterations.....	10
5.6. Damage to Units and to Common Elements.....	10
ARTICLE VI: COMMON EXPENSES, ASSESSMENTS, TAXES, AND ACCOUNTS	11
6.1. Common Expenses.....	11
6.2. Assessment for Common Expenses.	11
6.3. Payment of Assessments.....	12
6.4. Purchaser of Unit	12
6.5. Enforcement of Lien..	12
6.6. Real Estate Taxes.	12
6.7. Utility Charges	13
6.8. Accounts.	13
6.9. No Statutory Reserve Account.....	13

ARTICLE VII: USE OF CONDOMINIUM.....	13
7.1. Types of Uses.....	13
7.2. Use of Common Elements	13
7.3. Use of Residential Limited Common Elements.....	13
ARTICLE VIII: RESTRICTIONS ON USE, OCCUPANCY AND TRANSFER	13
8.1. Limitations.	13
8.2. Right to Transfer	14
8.3. Residential Unit Owner’s Right to Lease Apartments.....	14
8.4. Commercial Unit Owner’s Right to Lease Commercial Units	14
8.5. Unlawful Use of Condominium or Unit	14
8.6. Unit Owners Restrictions on Use of Unit, Common Elements	15
8.7. Unit Owners Restrictions on Parking Stalls and on Common Area Parking.	15
8.8. Unit 1 Ability Relating to Submitting Units to the Condominium form of Ownership/Unit 2 Right to Opt Out.....	16
ARTICLE IX: REPAIR OR RECONSTRUCTION.....	16
9.1. Repair or Reconstruction of Condominium.....	16
9.2. Eminent Domain.	17
9.3. Association as Designated Agent.....	18
ARTICLE X: EASEMENTS AND ENCROACHMENTS	18
10.1. Utility, Roof, and Maintenance Easements.....	18
10.2. Construction Easement	19
10.3. Easement to Facilitate Leasing and Sales	19
10.4. Support Easement	19
10.5. Common Elements Easement	19
10.6. Unit Owner’s Grant of Easement.....	20
10.7. Pedestrian Mall and Retail Access Easement.	20
10.8. Declarant’s Easement.....	21
10.9. Governmental and Utility Easement	21
10.10. Binding Effect.....	21
10.11. Encroachments.....	21
ARTICLE XI: MORTGAGES	22
11.1. Separate Mortgages of Units.....	22
11.2. Mortgagees.....	22
11.3. Roster of Mortgagees.....	22
11.4. Liens.....	22
11.5. Restrictions on Actions of Association.....	22
11.6. Application and Effect	22
11.7. Amendment to Declaration	23
11.8. Priority of First Mortgagees.....	23
ARTICLE XII: INSURANCE.....	23
12.1. Insurance	23

12.2.	Proceeds of Insurance	24
12.3.	Public Liability Insurance	24
12.4.	Fidelity Bonds	24
12.5.	Separate Insurance	24
ARTICLE XIII: BOUNDARY RELOCATION; SUBDIVISION; PARTITION.....		24
13.1.	Relocation of Boundaries Between Adjoining Unit	24
13.2.	Subdivision and Combination of Units	25
13.3.	No Revocation or Partition	25
13.4.	Declarant's Rights and Control.....	25
13.5.	Expansion of Condominium	25
ARTICLE XIV: DISCLAIMER OF LIABILITY OF ASSOCIATION		26
14.1.	Disclaimer	26
14.2.	Personal Property	26
ARTICLE XV: AMENDMENT TO DECLARATION		26
15.1.	Amendment.....	26
15.2.	Special Amendments.	26
15.3.	Amendments Affecting Commercial Units.	27
15.4.	Amendments Affecting Residential Units	27
ARTICLE XVI: TERMINATION OF CONDOMINIUM.....		27
ARTICLE XVII: ADDITIONAL PROVISIONS.....		27
17.1.	Claims; Dispute Resolution.	27
17.2.	Waiver.....	32
17.3.	Severability	32
17.4.	Captions.	32
17.5.	No Obligations.....	32
17.6.	Number and Gender	32
17.7.	Registered Agent.....	32
ARTICLE XVIII: CONSENT OF MORTGAGEE		1

DECLARATION
OF
[VILLAGE ON MAIN] CONDOMINIUM

This Declaration is made as of this ____ day of [____], 2022, by VILLAGE ON MAIN, LLC, a Wisconsin limited liability company (hereinafter referred to as the “*Declarant*”).

Declarant hereby declares that it is the sole owner of the real property located at 701 West Main Street, Waunakee, Wisconsin 53597, and more particularly described in Exhibit A, together with all rights appurtenant thereto and with any and all improvements now or subsequently placed thereon and any and all rights appurtenant to such improvements. Declarant hereby submits the Property to the condominium form of ownership as provided in the Act (defined below). All provisions hereof shall be deemed to run with the land and shall constitute benefits and burdens to Declarant, its successors and assigns, and to all parties hereafter having any interest in the Property.

Declarant reserves the right to assign its ownership interest in the Property to another entity of its choosing at any time without the consent of any Unit Owner or the Association. In the event of such an assignment, Declarant may and shall record a Special Amendment to this Declaration providing the name of the assignee as the new Declarant.

ARTICLE I: DEFINITIONS

1.1. Defined Terms. Capitalized terms not otherwise defined within the text of this Declaration shall be defined as follows:

- (a) “Act” means Chapter 703 of the Wisconsin Statutes and known as the Condominium Ownership Act, as amended from time to time.
- (b) “Assessment Interest” means the undivided percentage interest from time to time of each Unit, determined as provided in Exhibit C, below.
- (c) “Apartments” means those residential apartments located within the Residential Unit.
- (d) “Articles” means the Articles of Incorporation of the Association.
- (e) “Assessments” refers to the amount determined by the Association to be due with respect to a Unit and its appurtenant interests for shared Common Expenses.
- (f) “Association” means the [Village on Main] Condominium Association, Inc., a Wisconsin non-stock corporation.
- (g) “Board of Directors” means the governing body of the Association.

(h) “Building” means any building or buildings that are located on the Property, including the above-ground and below-ground parking as shown on the Plat.

(i) “Bylaws” mean the Bylaws of the Association.

(j) “Commercial Unit(s)” means Unit 2.

(k) “Commercial Unit Owner” means any natural person, corporation, partnership, association, trust, or other entity capable of holding title to real property, or any combination thereof that holds legal title to a Commercial Unit or has equitable ownership to a Commercial Unit as a land contract vendee, but does not include any tenant or other occupant or any Mortgagee before such Mortgagee takes title to a Commercial Unit by foreclosure or process in lieu thereof. For purposes of Article III, hereof, each Commercial Unit shall be deemed to have only one (1) Commercial Unit Owner.

(l) “Common Expenses” means all of the expenses of the Association related to Common Elements and any expenses or costs of operation of the Association.

(m) “Common Elements” means all portions of the Condominium, other than the Units as described in Section 2.4.

(n) “Condominium” means the Village on Main Condominium.

(o) “Condominium Documents” consist of the Articles, Bylaws, Plat Maps and this Declaration.

(p) “Declarant” means Village on Main, LLC, a Wisconsin limited liability company.

(q) “Declaration” means this Declaration of [Village on Main] Condominium.

(r) “Director” means a Member of the Board of Directors of the Association.

(s) “Limited Common Elements” means those portions of the Common Elements designated in this Declaration or on the Plat as being Limited Common Elements, and that are reserved for the exclusive use of one or more but less than all of the Unit Owners. Initially, the Limited Common Elements will all be Residential Common Elements.

(t) “Managing Agent” means any individual or entity employed by the Association to perform duties and services for the Condominium in accordance with the Act or the Condominium Documents.

(u) “Majority” means any number of Condominium Unit owners with more than 50% of the votes assigned to the Units by the Declaration.

(v) “Mortgage” means any recorded mortgage or land contract encumbering a Unit.

(w) “Mortgagee” means the holder of any recorded mortgage encumbering one or more of the Units, or a land contract vendor.

(x) “Member” means every Unit Owner, who by status as a Unit Owner shall also be a Member of the Association.

(y) “Membership Roster” means the list of all Unit Owners entitled to vote at all general and special meetings of the Association.

(z) “Parking Space” means a part of the Condominium intended for parking of motor vehicles.

(aa) “Plat” means the Plat of the Condominium attached hereto as Exhibit B, including floor plans of the Units, being recorded pursuant to the Act simultaneously herewith and constituting a part of this Declaration.

(bb) “Property” means the real property as described on Exhibit A.

(cc) “Residential Limited Common Elements” means those portions of the Common Elements designated in this Declaration or on the Plat as being Residential Limited Common Elements, and that are reserved for the exclusive use of only the Residential Unit Owners.

(dd) “Residential Assessment” shall mean the amount determined by the Board of Directors to be due with respect to Common Expenses that relate only to the Residential Limited Common Elements.

(ee) [“Residential Courtyard” means the outdoor landscaped courtyard designated on the Plat as the Residential Courtyard].

(ff) “Residential Unit” means Unit 1.

(gg) “Residential Unit Owner” means any natural person, corporation, partnership, association, trust, or other entity capable of holding title to real property, or any combination thereof that holds legal title to a Residential Unit or has equitable ownership to a Residential Unit as a land contract vendee, but does not include any Mortgagee before such Mortgagee takes title to a Residential Unit by foreclosure or process in lieu thereof. For purposes of Article III, hereof, each Residential Unit shall be deemed to have only one (1) Residential Unit Owner.

(hh) “Special Amendment” means an amendment to this Declaration that does not require the consent of anyone other than the Declarant.

(ii) “Special Assessment” means any assessment made against a Unit or Units that is not a Residential Assessment, and is assessed pursuant to Article VI.

(jj) [“Surface Parking Lot” means the ground level parking containing approximately _____ (____) parking stalls as set forth in the Plat].

(kk) “Underground Parking Structure” means the single level underground parking structure located under the Buildings and the Surface Parking Lot and other portions of the Condominium as shown on the Plat.

(ll) “Unit” means a part of the Condominium intended for private use by the Unit Owner as described in Article II of this Declaration, including the Residential Unit and Commercial Units.

(mm) “Unit 1” means that certain Unit designated as Unit 1 on the Plat.

(nn) “Unit 2” means that certain Unit designated as Unit 2 on the Plat.

(oo) “Unit Demising Wall” means those interior walls separating a Unit from another Unit.

(pp) “Unit Owner” means any Residential Unit Owner or Commercial Unit Owner; provided that, until Declarant shall transfer ownership of Unit 2 to a third party unrelated to Declarant, the Unit Owner of Unit 2 shall include the contract purchaser of Unit 2.

ARTICLE II: DESCRIPTION AND DESIGNATION

2.1. Description of Buildings. The approximate location and dimensions of the Building in which the Units are located are shown on the Plat.

2.2. Designation of Units. Units are identified by designation and numbers as indicated in this Section 2.2 and on the Plat. The Units have been divided into two types of Units: Commercial Units and Residential Unit. Unit 1 shall be the Residential Unit. Unit 2 shall be Commercial Units.

2.3. [Description of Units. The Condominium shall consist of one (1), two-towered building containing two (2) Units, all as shown on Exhibit B. Each Unit shall be identified by a number as indicated on the Plat attached at Exhibit B. The Units consist of three dimensional geometric constructs illustrated on the Plat and defined with the following boundaries:

(a) Unit 1.

(1) Horizontal Boundaries. The horizontal boundaries of Unit 1 shall be as shown and described on the Plat: (A) to the Unit line (inclusive of the sidewalks, landscaping and Surface Parking Lot as shown), and (B) the centerline of any Unit Demising Wall.

(2) Vertical Boundaries. The vertical boundaries of Unit 1 shall be:

(A) Upper Boundary. The upper boundary of Unit 1 is (A) the horizontal plane of the exterior surface of the roof of the Buildings, extended to the Unit line or an intersection with the horizontal boundaries described in Section

2.3(b)(1) where such exist. Where portions of Unit 1 are located underneath Unit 2, the upper boundary of that portion of Unit 1 shall be the centerline of the concrete slab supporting Unit 2.

(B) **Lower Boundary.** The lower boundary of that portion of Unit 1 not located on top of Unit 2 is the horizontal plane of the lower surface of the concrete slab upon which the below-grade, covered parking will be located, extended to an intersection with the horizontal boundaries described in Section 2.3(a)(1). The lower boundary of that portion of Unit 1 above Unit 2 is the centerline of the concrete slab supporting the floor of Unit 1 and the ceiling of Unit 2, extended to the Unit line or an intersection with the horizontal boundaries described in Section 2.3(a)(1) where such exist.

(b) **Unit 2.**

(1) **Horizontal Boundaries.** The horizontal boundaries of Unit 2 shall be as shown and described on the Plat: (A) to the Unit line (inclusive of the sidewalks and landscaping as shown), and (B) the centerline of any Unit Demising Wall.

(2) **Vertical Boundaries.** The vertical boundaries of Unit 2 shall be:

(A) **Upper Boundary.** The upper boundary of Unit 2 is the centerline of the concrete structural slab supporting the ceiling of Unit 2 and the floor of Unit 1, extended to an intersection with the horizontal boundaries described in Section 2.3(b)(1).

(B) **Lower Boundary.** The lower boundary of Unit 2 is the centerline of the bottom surface of the concrete slab supporting the floor of Unit 2, extended to an intersection with the horizontal boundaries described in Section 2.3(b)(1).

(c) **Additional Items.** Each Unit shall include the following, if any:

(1) The air conditioning, heating, ventilating, and water systems and equipment; any flues, exhaust fans, ducts, and conduits; wires, cables; electrical, security, fire prevention, telephone, television, and other communication systems; water, sewer, and gas pipes, and all other utility lines and distribution systems; wall safes, medicine cabinets; all interior ceilings, floors, walls, and partitions, floor and wall coverings, and all fixtures and improvements, including, without limitation, plumbing facilities within the Unit. Any portions of the foregoing items set forth in this Section 2.3(c)(1) that exclusively serves a Unit shall be deemed a part of that Unit (including to the extent such items penetrate the concrete slab above or below such Unit); provided, however, any portions thereof serving more than one Unit or any portion of the Common Elements shall be deemed a part of either the Common Elements or the Residential Limited Common Elements, in accordance with the definitions of each set forth in this Declaration.

(2) All exterior doors (including doors to any balcony serving the Unit and entrance doors to the Unit) and any and all hardware, including without limitation, door locks, hinges, and mechanical systems, if any associated with such doors].

2.4. Common Elements. The Common Elements consist of the entire Condominium serving both Unit 1 and Unit 2, other than the Units, including, without limitation, the following:

- (a) All footings, foundations, beams, walls, floors and structural supports of Buildings that are not included in the definition of any of the Units; and
- (b) All exterior ducts, lines, poles, posts, pipes, wires, cables, conduits, water lines, and all drainage, electrical, telephone, cable television, fire, communication, gas, sewer, heating, and plumbing systems that are not included in the definition of any of the Units; and
- (c) Stairways (as shown on the Plat) and the corridors on the ground floor leading to each.

2.5. Limited Common Elements. The Limited Common Elements are Common Elements that are reserved for the exclusive use of one or more, but less than all of, the Units and include, without limitation, the Residential Limited Common Elements. The Limited Common Elements also include, without limitation, any hall, stairway, or similar appurtenance exclusively serving a Unit (whether located within or without the designated boundary lines of a Unit) and identified on the Plat shall be considered a Limited Common Element appurtenant to such Unit.

2.6. Residential Limited Common Elements. The Residential Limited Common Elements consist of those Common Elements that exclusively serve each Residential Unit and that are generally described below or are generally identified as such on the Plat. The Residential Limited Common Elements are hereby reserved for the exclusive use of the Residential Units Owner. The Residential Limited Common Elements include, without limitation:

- (a) Elevators and the corridors on the ground floor leading to each;
- (b) Stairways (as shown on the Plat) and the corridor on the ground floor leading to each; and
- (c) The residential entryways and lobbies located on the ground floor;

2.7. Declarant's Right to Change Plans. Declarant reserves the right, without any consent from the Unit Owners or the Association, to change the layout, location, dimensions and construction details of the Building (provided same does not materially affect Unit 2), Unit 1, and Residential Limited Common Elements shown on the Plat, provided that such changes shall not substantially alter the nature, value, and quality of the Buildings or Unit 2. By accepting a deed to a Unit, the Unit Owner specifically and expressly consents to the Declarant's rights under this Section 2.9. Notwithstanding anything to the contrary set forth in the Condominium Documents, any change to the layout, location, dimensions and construction details of Unit 2 shall not occur

without the prior consent (not to be unreasonably withheld, conditioned, or delayed) of the Unit 2 Owner.

ARTICLE III: ASSOCIATION OF UNIT OWNERS

3.1. Membership, Duties and Obligations. Each Unit Owner shall be a Member of the Association. The Association shall be responsible for carrying out the purposes of this Declaration, including the exclusive management and control of the Common Elements. The Association shall be incorporated as a nonstock corporation under the laws of the State of Wisconsin. Each Unit Owner and the occupants of all Units shall abide by and be subject to all of the duties and obligations of the Act, this Declaration and the Condominium Documents. The Association shall maintain current copies of this Declaration, the Bylaws, and the Articles of Incorporation, as well as the Condominium records and financial statements, which shall be made available for inspection upon request by Unit Owners, valid lessees of a Commercial Unit (or any portion thereof), and holders, insurers, and guarantors of any Mortgages.

3.2. Voting Rights. There shall be one class of voting membership. All Unit Owners shall have one vote for each Unit owned, regardless of such Unit's Assessment Interest, and shall be entitled to cast the vote appurtenant to each Unit owned at all meetings of the Association on matters for which the members are entitled to vote. If title to a Unit is held by more than one person, then the co-owners of the Unit shall notify, in writing, the Secretary of the Association the individual that is entitled to cast the vote on behalf of all co-owners. No Unit Owner shall have more or less than one vote for each Unit owned, regardless of any subdivision or combination of Units pursuant to Section 13.2 of this Declaration.

3.3. Right to Vote. The Unit Owner shall be entitled to cast the votes pertaining to any Unit owned by such Unit Owner.

3.4. Board of Directors Review and Approval. Except for the initial construction of the Buildings, the Board of Directors shall review all plans for, and shall have the right to approve or disapprove any plans in a timely manner for any of the following (except as otherwise specified): (i) any improvement, alteration, or modification of the exterior of any Building and portions of a Unit (including commercial signage or designs elements) whose appearance impacts the harmony of the external appearance of the Buildings; (ii) any improvement, alteration, or modification to the interior of Unit 1 or Unit 2 that affects or may affect the Common Elements (exclusive of any Limited Common Elements) or the structural integrity of any Building; or (iii) any plan for any improvement, alteration, or modification to the Common Elements (exclusive of any plan to improve, alter or modify any Limited Common Elements by the owner of such Limited Common Elements). The Board of Directors shall not approve any plan of any Unit Owner that negatively and materially affects any other Unit or the Common Elements (exclusive of any plan to improve, alter or modify any Limited Common Elements by the owner of such Limited Common Elements). Notwithstanding the foregoing, if the Design Review Board of the City of Waunakee formally approves signage or design elements requested by a Unit Owner for its Unit and such signage or design element (i) does not affect the structural integrity of the Buildings (ii) reduce access to or visibility of any portion of the Units or Common Elements; or (iii) is shown to materially detract

from, or disrupt the ability of, the Unit 1 Owner to rent apartments, Board approval shall not be required.

ARTICLE IV: ASSESSMENT INTEREST

Every Unit Owner shall own an undivided interest in the Common Elements in accordance with the Assessment Interest table attached hereto as Exhibit C, as a tenant-in-common with all other Unit Owners, and, subject to the use restrictions set forth in the Condominium Documents, every Unit Owner shall have the right to use and occupy the Common Elements for all purposes that do not violate the Act, this Declaration, the Condominium Documents, or any combination thereof, which rights shall be appurtenant to and run with each Unit; provided that, notwithstanding anything to the contrary, a Unit Owner shall have the right to utilize its Limited Common Elements for any lawful purpose.

Each Unit Owner's Assessment Interest is set forth in Exhibit C.

ARTICLE V: MAINTENANCE, ALTERATION AND IMPROVEMENT OF CONDOMINIUM

5.1. Responsibility of Unit Owners.

(a) Each Unit Owner, at its sole expense, shall be responsible for keeping its Unit in good condition and repair, or causing its Unit to be so kept, including, without limitation, the items identified in Section 2.3(c), and all of the landscaping, pedestrian areas, equipment, fixtures, and appurtenances located on or upon the Unit, in good order, condition, and repair, and in a clean and sanitary condition, and in compliance with all applicable laws and regulations. Without in any way limiting the foregoing, each Unit Owner shall be responsible for the maintenance, repair, or replacement of any commercial equipment, lighting fixtures, plumbing fixtures, the air conditioning, heating and water systems, and equipment, any piping, chutes, flues, exhaust fans, ducts, conduits, wires, cables, electrical, security, telephone, television, safes, cabinets, built in shelving, and all communication systems, water, sewer and gas mains and laterals, and all other utility lines and distribution systems and fixtures and any portions thereof exclusively serving that Unit; provided, however, any portions thereof serving more than one (1) Unit or any portion of the Common Elements shall be deemed a part of either the Common Elements in accordance with the definitions of each set forth in this Declaration.

(b) Notwithstanding Section 5.1(a), the Association shall, for purposes of uniformity, replace, repair, paint, maintain, and adorn external features and other similar items that are visible from the Common Elements and located on or part of Unit 1, exclusively; provided, however, the Unit Owner who owns Unit 1 to which such items are a part and/or service, shall pay the costs incurred by the Association in replacing, repairing, painting, maintaining, and adorning such items.

(c) The Unit Owner shall at all times maintain the indoor temperature of the Unit at a temperature reasonably required to avoid damage to pipes and other portions of any Unit.

(d) The Unit Owner shall be solely responsible for the cost of repair of any damage to the Condominium caused by the Unit Owner's failure to fulfill any obligation pursuant to this Section 5.1. If a Unit Owner fails to discharge its obligations pursuant to this Section 5.1, then ten (10) business days after the Association or Declarant providing the Unit Owner notice of such failure, and the failure of such Unit Owner to commence a cure or provide a bone fide objection to the items set forth in such notice, the Association shall have the right, but not the obligation, to discharge such obligations on behalf of the Unit Owner, and, if any of the actual and reasonable costs so incurred by the Association are not promptly repaid to the Association, then the Board of Directors shall levy a Special Assessment against the Unit for such expense. Notwithstanding the foregoing, in case of an emergency, the right of the Association to discharge the obligations of Unit Owners under Section 5.1 shall be immediate and without notice, provided the Association shall not be obligated to discharge the aforementioned Unit Owner obligations regardless of whether there is an emergency. In the case of an emergency where the Association has elected to exercise the rights of the Unit Owners under Section 5.1, the Association shall use reasonable efforts to notify the applicable Unit Owner of such election as soon as reasonably possible.

5.2. Responsibility of Association. The Association shall be responsible for the management and control of the Common Elements and shall cause the same to be maintained, repaired and kept in good condition, order, repair, and in compliance with all applicable laws and regulations (except as specifically set forth in Section 5.1 above). Without in any way limiting the foregoing, the Association shall be responsible, at the expense of the Association (unless necessitated by the negligence or misuse of a Unit Owner or a Unit Owner's guests, licensees, or invitees, in which case such expense shall be charged to such Unit Owner), for the following in relation to the Units or Common Elements (provided that the Owner of Unit 2 shall have no obligation to pay for any portion of the management or control of any portion of the Residential Common Elements):

(a) such actions as may be necessary to repair, maintain, and replace the Common Elements (including the Residential Limited Common Elements) in compliance with all applicable laws, codes and ordinances and as deemed necessary or desirable in the Association's reasonable discretion;

(b) all painting, repairing, restoration, and general maintenance of the Common Elements (including the Residential Limited Common Elements);

(c) maintenance, repair, and replacement of electrical wiring, lighting, heating systems, venting, conduit, and pipes, and ducts in the Common Elements;

(d) purchase, maintenance, repair, replacement, and storage of equipment, and materials required to accomplish the foregoing;

(e) snow and ice removal from sidewalks, driveways, ramps, and parking areas located on the Units (exclusive of the sidewalks directly in front of, along, and adjacent the Building and within Unit 2).

(f) maintenance, repair, and restoration of sidewalks (exclusive of the sidewalks directly in front of, along, and adjacent the Building and within Unit 2), walkways, driveways, approaches to driveways, ramps, and parking areas located on the Units.

For purposes of clarification, although the Association is responsible the work in (e) and (f), the expense of the work shall be borne by the Owner of Unit 1.

5.3. Repair and Replacement Standards. All repairs and replacements shall, to the extent reasonably possible, be done in a manner that is substantially similar to the quality and appearance of original construction and installation.

5.4. Alterations to Unit. Subject to compliance with Section 3.4, a Unit Owner may make any alterations to a Unit deemed desirable to the Unit Owner, including the movement or modification of any interior walls of such Unit Owner's Unit. All work done in connection with any alteration to the Unit shall be completed in a good, workmanlike manner in accordance with all applicable statutes, codes and ordinances, and free from all liens. Any Unit Owner who makes any alterations to its Unit shall indemnify and hold harmless the other Unit Owners, the Board of Directors, the Declarant and the Association from and against all claims of third parties for personal injury or property damage from work performed in connection with any alterations. In the event any alteration to a Unit requires or results in the penetration of the concrete slabs above or below a Unit, the Unit Owner, at the Unit Owner's expense, shall provide the Board of Directors with a diagram produced by x-ray, magnetometer, or other acceptable means showing the location of cables or other structural materials in the slabs.

5.5. Exterior Alterations. All exterior improvements shall be treated as improvements to the Units of which the exterior is a part.

5.6. Damage to Units and to Common Elements. In the event the Association, or any individual or entity acting on behalf of the Association, damages any portion of a Unit or Common Elements (including a Limited Common Element) while making any repair or renovation to any portion of a Unit or Common Element, then the Association shall be responsible for promptly repairing and restoring any portion of any such Unit or Common Elements to the condition in which it existed prior to the Association's actions. In the event that any Unit Owner, or any individual or entity acting on behalf of any Unit Owner, damages any portion of Common Elements, while making a repair or renovation to its Unit, then the Association shall be responsible for promptly repairing and restoring the portion of the Common Elements that were damaged to the condition in which it existed prior to such event and the Unit Owner shall be responsible for paying the actual and reasonable costs incurred by the Association in repairing and restoring the Common Elements. If the Association fails to discharge its obligations pursuant to this Section 5.6, then ten (10) business days after the Unit Owner provides notice of such failure, and the failure of the Association to commence a cure and diligently pursue such cure to completion, the Unit Owner providing the notice shall have the right, but not the obligation, to discharge such

obligations on behalf of the Association, and, if any of the actual and reasonable costs so incurred by the Unit Owner are not promptly repaid by the Association, the Unit Owner shall have the right to seek all remedies available at law or equity.

ARTICLE VI: COMMON EXPENSES, ASSESSMENTS, TAXES, AND ACCOUNTS

6.1. Common Expenses. The Common Expenses are all the expenses of the Association incurred in relation to the Common Elements (but not of any Limited Common Elements) and are limited to: the costs associated with providing utilities to the Common Elements; obtaining and maintaining insurance for the Common Elements; any association or other fees related to any easements, declarations or similar documents affecting the underlying real property, repair, maintenance, restoration, operation, management, and replacement of the Common Elements; and other expenses related to the Common Elements, except as otherwise specified in the Condominium Documents. The Common Expenses shall be paid for by the Association. The Association shall make Assessments against the Unit Owners, as well as the Units themselves, for such Common Expenses in the manner provided in this Declaration and the Bylaws.

The Assessment obligation appurtenant to a Unit shall commence upon the date on which the building is stabilized, which for purposes of hereof, shall be the date on tenants shall first occupy Unit 1 and Unit 2. Except as expressly stated elsewhere in the Condominium Documents, the percentage of the Common Expenses payable by the individual Units shall be the Assessment Interest of the Unit. No Unit Owner may exempt itself or a Unit from liability for contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by the abandonment of a Unit, provided that, notwithstanding anything to the contrary, no Unit Owner shall be responsible for payment to the Association of any costs incurred in relation to any Limited Common Elements not owned by such Unit Owner. No conveyance shall relieve a Unit Owner or a Unit of such liability, and the Unit Owner shall be jointly, severally, and personally liable along with any grantee in any conveyance of the Unit for the Common Expenses incurred up to the date of sale until all such expenses charged to the Unit have been paid. A Unit, for purposes of this Article, shall exist and be made part of the Condominium only upon the recording of this Declaration, if the Unit is included in the Plat.

6.2. Assessment for Common Expenses. Assessments that are general in nature shall be made against the Unit Owners and the Units in accordance with the Unit Owner's Assessment Interest at the beginning of each fiscal year of the Association to meet estimated Common Expenses of the Association for the ensuing year and shall be payable in twelve (12) monthly installments, on the first day of each month. Notwithstanding any other provision of this Declaration, there will be an annual Ten Thousand Dollar (\$10,000.00) assessment for the Maintenance, Repair and Replacement Fund to include the roof and other improvements of the Buildings to be shared proportionately in accordance the Unit Owner's Assessment Interest. Special Assessments for expenses incurred by the Association that relate to a particular Unit or Units or the Residential Limited Common Elements, shall be levied against the applicable Unit Owners and Units in accordance with their Assessment Interest at any time the Board of Directors deems advisable; provided, however, Special Assessments are levied in compliance with the Bylaws. The Association shall have the authority to modify Assessments one (1) time during any fiscal year upon not less than thirty (30) days prior written notice. In the event of delinquency in

payment, the Association may, as provided for in the Bylaws, assess penalties and interest. Notwithstanding anything to the contrary in the Condominium Documents, Residential Assessments shall not be made against Unit 2.

6.3. Payment of Assessments. All Assessments when due, together with any interest thereon and actual costs of collection, shall immediately become a personal liability of the Unit Owner (but not of the shareholders, members or partners) and also a lien, until paid, against the Unit so charged, if a statement of lien is filed within two (2) years after the date the Assessment becomes due. The lien is effective against a Unit at the time the Assessment becomes due regardless of when within the two-year period it is filed. Any statement of lien shall be filed in the land records of the Clerk of Court of Dane County, stating the description of the Unit, the name of the record owners, the amount due and the period for which the Assessment was due. The statement of condominium lien shall be signed and verified by an officer of the Association as specified in the Bylaws and then shall be filed. On full payment of the Assessment for which the lien is claimed, together with all interest and penalties, the Unit Owner shall be entitled to a recordable satisfaction of the lien. Any lien for delinquent Assessments shall be subordinate to a first priority Mortgage on the Unit if the Mortgage was recorded before the delinquent Assessment became due. Commercial Unit Owners shall be responsible for the payment of Special Assessments, which payments shall be made in accordance with the Bylaws, and the Commercial Unit Owners shall not be responsible for the payment of Residential Assessments. Residential Unit Owners shall be responsible for the payment of Residential Assessments and Special Assessments, which payments shall be made in accordance with the Bylaws.

6.4. Purchaser of Unit. Any purchaser of a Unit is entitled to a statement from the Board of Directors of the Association setting forth the amount of unpaid Assessments against the seller of such Unit and the Unit. The statement shall be supplied to the purchaser of such Unit within fifteen (15) days after such a written request is received by the Association. In the event of a foreclosure of a Mortgage on a Unit with a delinquent Assessment lien, the foreclosure will extinguish the lien for any Assessments that were payable before the foreclosure sale, but shall not relieve any subsequent Unit Owner from paying further Assessments. The Association shall be entitled to charge a fee for the preparation of financial statements, affidavits, certificates or other materials requested pursuant to the sale of a Unit (the ***"Disclosure Fee"***). The amount and terms of payment of the Disclosure fee shall be set forth in the Bylaws.

6.5. Enforcement of Lien. The Association shall have the right to enforce any lien for unpaid Assessments, charges, fines or penalties, shall have all of the rights and remedies provided for in Section 703.165 of the Act, and may exercise those rights and remedies as the Board of Directors deems appropriate. The amount of any lien claim shall include interest on the unpaid portion of an Assessment and reasonable attorneys' and collection fees.

6.6. Real Estate Taxes. Real estate taxes shall be assessed separately against each Unit. The applicable Unit Owner shall be responsible for paying all real estate taxes assessed against any Unit that it owns. In the event the Association is assessed for any real estate taxes on any Unit, then the Unit Owner who owns the Unit for which the Association is assessed shall pay those real estate taxes.

6.7. Utility Charges. Utility charges and/or fees shall be metered and issued to each separate Unit. These charges shall remain the personal obligation of the Unit Owner. Utility charges for any Common Area shall be a Common Expense.

6.8. Accounts. Accounts shall be established and maintained for the Operating Fund, Replacement Fund, and any other reserve funds in compliance with Article VII of the Bylaws or any other applicable provision of the Condominium Documents and the Act.

6.9. No Statutory Reserve Account. Pursuant to Section 703.163 of the Act, Declarant elects not to establish a Statutory Reserve Account.

ARTICLE VII: USE OF CONDOMINIUM

7.1. Types of Uses. This Condominium shall consist of residential uses and commercial uses, and such uses shall be permitted only in accordance with designations set forth in this Declaration. Each Residential Unit shall contain residential apartment units.

7.2. Use of Common Elements. Each Unit Owner shall have the right in common with all Unit Owners, to use the Common Elements, as may be required for any reasonable purpose, including, but subject to any reasonable rules promulgated by the Association. Such right shall extend to the Unit Owner, and tenants, employees, agents, contractors, invitees, and to the Declarant in the event of and with regard to any unsold Units. The use of the Common Elements and the rights of Unit Owners with respect thereto shall be subject to and governed by the provisions of the Act and the Condominium Documents. The Declarant and the Association may establish restrictions on the use of any portion of the Common Elements, provided that, in no event shall any such restrictions materially affect the ability of Unit 2 to utilize the Common Elements as needed.

7.3. Use of Residential Limited Common Elements. The portions of the Common Elements designated as Residential Limited Common Elements are reserved for the exclusive use of the Residential Unit Owners and their tenants, agents, contractors, guests, and invitees of the Unit Owner and tenants.

ARTICLE VIII: RESTRICTIONS ON USE, OCCUPANCY AND TRANSFER

8.1. Limitations. Each Unit Owner, its tenants, agents, representatives, guests, employees, customers, and invitees, shall be subject to the restrictions set forth in this Declaration and the Condominium Documents, as amended from time to time.

(a) Notwithstanding anything to the contrary in the Condominium Documents, Declarant reserves the right to use various portions of the Units it owns (during any periods of such ownership, only) as models, or leasing, sales or management offices for the Condominium.

(b) The Commercial Unit shall only be used for general office, retail, banking, restaurant (with or without the sale of alcohol), bar, health club, spa, and other lawful

commercial and retail uses related thereto, provided such related uses are not prohibited by any applicable governmental regulation or law, or any restrictions on the land. In accordance with Section 3.4, the commercial Unit may have such exterior signage as is compliant with the then current applicable statutes, regulations and ordinances.

(c) The Residential Unit shall only be used for residential uses and reasonable uses related thereto, provided such related uses are not prohibited by the Bylaws or any applicable governmental regulation or law. In accordance with Section 3.4, the residential Unit may have such exterior signage as is compliant with the then current applicable statutes, regulations and ordinances.

8.2. Right to Transfer. Any Unit Owner shall have the right to transfer its Unit or Units by deed, land contract, or by such other means of conveyance as it may choose, and in the event Declarant shall be required to foreclose or otherwise recover possession of any Unit, Declarant shall be free to dispose of any such Unit by any means the Declarant chooses. This Article shall not be amended or repealed by the Association or the Unit Owners without written approval of such amendment or repeal by one hundred percent (100%) of the Unit Owners.

8.3. Residential Unit Owner's Right to Lease Apartments. Notwithstanding anything to the contrary in this Declaration or any of the Condominium Documents, the Declarant, and any other Residential Unit Owner may lease Apartments on such terms and conditions as it desires in its sole discretion. The rights of any lessee of any Apartment shall be subject to all of the covenants, conditions, and restrictions set forth in the Condominium Documents.

8.4. Commercial Unit Owner's Right to Lease Commercial Units. Commercial Unit Owners, other than the Declarant, may lease an entire Commercial Unit or portions thereof on such terms and conditions as it desires in its sole discretion. The rights of any lessee of any Commercial Unit or portion thereof shall be subject to all of the covenants, conditions, and restrictions set forth in the Condominium Documents.

8.5. Unlawful Use of Condominium or Unit. No unlawful use may be made of the Condominium or any part thereof and each Unit Owner shall strictly comply with all valid laws, orders, rules, and regulations of all governmental agencies having jurisdiction. Compliance with any legal requirements shall be accomplished by and shall be at the sole expense of the Unit Owner or the Board of Directors, as the case may be, whichever shall have the obligation under this Declaration to maintain and repair the portion of the Condominium affected by any such legal requirements. Each Unit Owner shall give prompt notice to the Board of Directors of any written notice of a violation of any legal requirements affecting a Unit or the Condominium. Notwithstanding the foregoing provisions, any Unit Owner may, at the Unit Owner's expense, defer compliance with and contest, by appropriate proceedings prosecuted diligently and in good faith, the validity or applicability of any legal requirements affecting any portion of the Condominium that such Unit Owner is obligated to maintain and repair, and the Board of Directors shall cooperate with such Unit Owner in such proceedings, provided that:

(a) Such Unit Owner shall pay and shall defend, save harmless, and indemnify the Board of Directors, the Association, Declarant's Mortgagee, and each other Unit Owner and their Mortgagee, if any, against all liability, loss, or damage that any of them may

suffer by reason of such contest and any noncompliance with such legal requirements, including reasonable attorneys, fees and other expenses reasonably incurred;

(b) Such Unit Owner shall keep the Board of Directors advised as to the status of such proceedings;

(c) Noncompliance shall not create a dangerous condition or constitute a crime, public or private nuisance, or an offense punishable by fine or imprisonment; and

(d) No part of the Buildings shall be subject to being condemned or vacated by reason of noncompliance or otherwise, by reason of such contest.

The Association may also contest any legal requirements and the costs and expenses thereof shall be a Common Expense.

8.6. Unit Owners Restrictions on Use of Unit, Common Elements. Except as may otherwise be expressly provided in this Article VIII:

(a) No Unit Owner shall occupy or use a Residential Unit, or permit the same or any part thereof, to be occupied or used for any purpose other than as private, residential apartments or amenities related thereto.

(b) No Unit Owner shall occupy or use a Commercial Unit, or permit the same or any part thereof, to be occupied or used as a residence.

(c) No Unit Owner, or any tenants, employees, agents, contractors, invitees or guests of a Unit Owner may in any way obstruct the use of another Unit, or the Common Elements, provided that the Unit Owner of the Commercial Unit shall be permitted to have installed such outdoor seating areas in its Unit as may be permitted by law.

(d) No Unit Owner, or any tenants, employees, agents, contractors, invitees or guests of a Unit Owner, shall carry on any noxious activity in any Unit, the Common Elements, nor shall anything be done therein that may be or become an unreasonable annoyance or nuisance to others.

8.7. Unit Owners Restrictions on Parking Stalls and on Common Area Parking.

(a) To enhance the aesthetics of the Condominium and in order to facilitate required maintenance and snow plowing of any driveway and parking areas, all vehicles of any type shall be parked in Parking Spaces.

(b) No boats, campers, trailers, recreation vehicles, or other vehicles of similar nature and design shall be placed, stored, or parked in any Parking Space for a period of longer than twenty-four (24) consecutive hours in any one (1) week period. No individual shall be allowed to use or occupy any recreational vehicle or any similar vehicle designed or used for overnight camping while such vehicle is parked on the Property. Parking Spaces may not be used for storage or placement of any personal property other than motor vehicles or trailers, as set forth above.

(c) No Unit Owner or members, tenants, agents, contractors, employees, invitees, or guests of a Unit Owner may use any of the Parking Spaces, or parking areas for the purpose of repairing or restoring any motor vehicle.

8.8. Unit 1 Ability Relating to Submitting Units to the Condominium form of Ownership/Unit 2 Right to Opt Out.

(a) The Owner of Unit 1 may, in its sole discretion, subject Unit 1 to the condominium form of ownership pursuant to the Act (the "***the Sub-Condo***"). The owner of Unit 1 shall be the declarant of the Sub-Condo and shall cause the recording of the condominium declaration creating the Sub-Condo, and shall cause the formation of an association of Sub-Condo unit owners (the "***Sub-Condo Association***"). One of the duties of the Sub-Condo Association shall be to appoint the requisite number of Directors to the Association's Board of Directors. The Sub-Condo shall have the same representation on the Board of Directors and votes in the Association as existed immediately prior to the creation of the Sub-Condo.

(b) Notwithstanding anything to the contrary, in the event that the Owner of Unit 1 shall elect to subject Unit 1 to the Sub-Condo, said Owner shall provide not less than sixty (60) days prior written notice of such election (the "***Sub-Condo Notice***") to the Owner of Unit 2. The Owner of Unit 2 shall have the right, but not the obligation, to be exercised, if at all, by written notice (the "***Withdrawal Notice***") given to the Owner of Unit 1 within forty-five (45) days after receipt of the Sub Condo Notice, to withdraw Unit 2 from the condominium form of ownership prescribed by this Declaration. In the event that the Owner of Unit 2 shall elect to provide the Withdrawal Notice, the Parties shall, prior to the effective date of the Sub-Condo, (i) cause this Declaration to be amended to reflect the withdrawal of Unit 2, and (ii) enter into a mutually acceptable perpetual easement relating to utilities, foundations, shared Common Elements, including, but not limited to parking, and such other matters as the Parties shall mutually agree upon, provided that in no event shall such easement require the Owner of Unit 2 to seek approval or consent from the Association, Board of Directors or Sub-Condo Association for the operation, maintenance, use, decoration or any other matter relating to Unit 2. [OPTIONAL PROVISIONS]

ARTICLE IX: REPAIR OR RECONSTRUCTION

9.1. Repair or Reconstruction of Condominium. If the Condominium is destroyed by fire or other casualty to an extent more than can be repaired or reconstructed with the available insurance proceeds, and, if within ninety (90) days after the date of such destruction, Unit Owners owning Units to which at least seventy-five percent (75%) of the votes in the Association appertain and eligible Mortgage holders who represent at least fifty-one percent (51%) of the votes of the Units that are subject to Mortgages held by eligible holders agree to waive and terminate the Condominium regime, the Condominium shall be subject to an action for partition, in which event the net proceeds of sale and the insurance policies, if any, shall be equitably distributed. In the event of a partition pursuant to this Section 9.1, any Unit Owner whose Unit is subject to a Mortgage shall first obtain such Mortgagees' written consent to the Unit Owner's intended vote. Until the execution of judgment partitioning the Condominium, each Unit Owner, and the heirs,

successors, or assigns of a Unit Owner, shall have an exclusive right of occupancy of that part of the Condominium that formerly constituted the Unit. In the event of damage or destruction for which insurance proceeds are equal to or greater than one hundred percent (100%) of the cost of completing repair or reconstruction, subject to the provisions of any mortgage affecting the Condominium, the work shall be completed at the direction of the Association and the Owner of the affected Unit(s) and any excess equitably distributed.

9.2. Eminent Domain. In the event of the taking of all or part of the Property under the power of eminent domain, any damages shall be awarded as provided in Section 703.19(3) of the Wisconsin Statutes, as the same is amended from time to time.

(a) **Taking of Common Elements.** Subject to the right of any Unit Owner's Mortgagee to the proceeds of any award, following the taking of all or a part of the Common Elements, the Party receiving that portion of the award applicable to their Unit shall promptly undertake to restore the affected Common Elements to a condition compatible with the balance of the Property, provided that in no event shall any Unit Owner be required to expend more than the amount so awarded to it. However, if the value of the taking exceeds the value of the remaining Common Elements to the extent that, in the judgment of the Association, reconstruction or restoration is not practical, the Condominium shall be subject to an action for partition upon obtaining the written consent of the Unit Owners having seventy-five percent (75%) or more of the vote in the Association. All Unit Owners whose Unit is subject to a mortgage shall first obtain its Mortgagee's written consent to the Unit Owner's intended vote. In the case of partition, the net proceeds of sale, together with any net proceeds of the award of taking, shall be considered as one (1) fund and shall be divided among all Unit Owners in proportion to their Assessment Interests. Any Mortgagee may require that the net proceeds of the award from any taking, payable to the Unit Owner who granted the Mortgagee its Mortgage, be paid directly to a trustee designated by the Mortgagee.

(b) **Taking of Unit.** Following a taking of all or substantially all of one (1) or more Units, such that the restoration or reconstruction of the Unit or Units is not practical, the affected Unit Owners and their Mortgagees, if any, as their respective interests may appear, shall be entitled to receive the full amount of the award for the taking of their Units. The affected Unit Owners shall thereupon release and relinquish any and all interests in the Units or portion thereof so taken. The remaining Unit Owners shall thereafter file an amendment to this Declaration that will change the description of Property and improvements subject to the Declaration and the portion of the property designated as Units and Common Elements and, if appropriate, change the Assessment Interest appurtenant to each Unit.

(c) **Taking of a Portion of a Unit.** In the event that a portion of any Unit is taken and the Unit is repaired or reconstructed, the Assessment Interests and vote appurtenant to such Unit shall be equitably revised.

9.3. Association as Designated Agent. The Association shall act as the designated agent for the Unit 1 Owner and its Mortgagees for the purpose of representing, negotiating, and settling any proceeds or awards to be made to the Association or the Unit 1 Owner on account of any casualty or damage to the Common Elements or eminent domain proceedings that involve the Common Elements. The Owner of Unit 2 shall designate an agent to act on behalf of the Unit 2 Owner and its Mortgagees for the purpose of representing, negotiating, and settling any proceeds or awards to be made to the Unit 2 Owner on account of any casualty or damage to the Common Elements. That portion of the proceeds or awards relating to the Common Elements shall be made payable to the Association for the benefit of the Unit Owners and their Mortgagees. That portion of the Proceeds or awards relating to Unit 2 shall be made payable to the Owner of Unit 2 and its Mortgagee. The distribution of such funds in connection with the termination of the Condominium shall be made based upon each Unit's Assessment Interest.

ARTICLE X: EASEMENTS AND ENCROACHMENTS

10.1. Utility, Roof, and Maintenance Easements. Easements are hereby declared and granted over, across, under, along, and through all Units and any portion of the Common Elements for the benefit of the Declarant, Unit Owners and the Association, and their respective successors and assigns for:

(a) utility purposes, including without limitation, the right to install, lay, maintain, repair, and replace: water, sewer and gas facilities, piping, conduit, and equipment; telephone and data (including internet) facilities, systems, piping, conduit, wire, cable, and equipment; television facilities, piping, conduit, wire, cable, and equipment; security and communication facilities, systems, piping, conduit, wire, cable, and equipment; heating, ventilating and air conditioning facilities, piping, conduit, ducts, wire, cable, and equipment; and electrical facilities, piping, conduit, wire, cable, and equipment; and

(b) maintenance purposes, including without limitation, the right to locate, install, maintain and operate maintenance devices and equipment, including window-washing equipment, exterior/roof maintenance equipment, parking lot repair equipment.

(c) Rooftop use, including the placement of satellite dishes, commercial signage, and similar rooftop installations, including an easement for electrical, installation, access, maintenance, so long as such are properly approved as improvements under Section 3.4. The Unit Owner benefitting from such installation shall be solely responsible for the costs of maintenance, installation, repair, and replacement of such improvement. Any liability, cost or damage arising from such improvement shall also be the sole responsibility of the benefitted Unit Owner. The foregoing easement shall not give rise to the right to lease or sell rooftop antennae or other space at a profit without the prior written consent of the other Unit Owner.

Notwithstanding the foregoing provisions of this Article X, unless otherwise approved in writing by the Unit Owner or Unit Owners affected thereby, any such easement through a Unit shall be located either in substantially the same location as such facilities or similar facilities

existed at the time of first conveyance of the Unit by the Declarant to a grantee other than the Declarant, or so as not to materially interfere with the use, occupancy or value of the Unit. In addition the easement rights set forth in this Section shall be exercised so as to not materially interfere with any Unit Owners ownership, operation and use of their respective Unit or Units

10.2. Construction Easement. Notwithstanding anything to the contrary in this Declaration or any of the Condominium Documents, until Declarant shall have completed all improvements to the Common Elements (and provided that Declarant has not transferred ownership of Unit 2 to a third party) and satisfied all of its obligations under any of the Condominium Documents, Declarant reserves an easement for itself and its duly authorized agents, representatives, and employees, over the Common Elements and any Units owned by Declarant for construction or renovation on the Property or related purposes including, but not necessarily limited to: storing tools, machinery, equipment, building materials, appliances, supplies and fixtures; maintaining and correcting drainage of surface, roof or storm water; cutting any trees, bushes, or shrubbery; grading the soil; or taking any other action reasonably necessary for the completion of construction of the Condominium. In the event the Declarant exercises its rights under this Article X, the Declarant shall upon, completion of the construction, promptly restore the affected Property as closely as possible to the condition it was in prior to the construction. Each Unit Owner hereby acknowledges that the activities of the Declarant may temporarily impair the view and cause inconveniences to the Unit Owners, and the Unit Owners shall not have any right to compensation for such impairment or inconvenience. After ownership of Unit 2 has been transferred to a third party other than Declarant, the then Owner of Unit 2 shall, until such time as all construction on the interior and exterior of Unit 2 shall have been completed, from time to time, have the same easement rights granted to Declarant in this Article 10.2.

10.3. Easement to Facilitate Leasing and Sales. The Declarant reserves the right to use any Units owned or leased by the Declarant (during such periods of ownership or leasing, only) as models, management offices, sales offices (for this and other projects), leasing offices (for this or other projects), or customer service offices. The Declarant reserves the right to relocate the same from time to time within the Property; upon relocation, the furnishings thereof may be removed, and if being relocated from Unit 2, shall be removed. The Declarant further reserves the right to maintain on the Property such advertising signs as may comply with applicable governmental regulations, which may be placed in such location on the Property as shall be first approved by the Unit Owners. The Declarant shall have the right to the use of Parking Stalls for sales and leasing purposes. Further, the Declarant shall have the right to erect, maintain, relocate and remove temporary offices on that portion of the Property not included in Unit 2.

10.4. Support Easement. Each Unit shall have an easement for structural support over every other Unit in the Building in which the Unit is located, every abutting Unit, and in the Common Elements located within, appurtenant to, abutting, or apart of such Building, and each such Unit and Common Element shall be subject to an easement for structural support in favor of every other Unit in that Building, every abutting Unit, and the Common Elements located within, appurtenant to, abutting or apart of such Building.

10.5. Common Elements Easement. The Common Elements are hereby made subject to the following easements in favor of the Units benefited:

(a) for the installation, repair, maintenance, use, removal and/or replacement of heating, ventilating, air conditioning, and water systems and equipment, any chutes, flues, exhaust fans, ducts, conduits, wires, cables, electrical, security, telephone, television and other communication systems, water, sewer and gas facilities, and all other utility lines and distribution systems, to the extent any such system or, that portion of a system, serves a particular Unit or is necessary for service to a Unit;

(b) for the installation, repair, maintenance, use, removal, or replacement of lighting fixtures, electrical receptacles, panel boards and other electrical installations that are a part of or serve any Unit, but encroach into any portion of the Common Elements adjacent to such Unit; provided that the installation, repair, maintenance, use, removal or replacement of any such item does not unreasonably interfere with the use of any part of the Common Elements, adversely affect either the thermal or acoustical character of any of the Buildings or impair or structurally weaken any of the Buildings; or

(c) for the maintenance of the encroachment of any lighting devices, outlets, cabinets, shelving, safes, exhaust fans, ventilation ducts, registers, grilles and similar fixtures that serve only one (1) Unit but encroach into any part of any Common Elements.

10.6. Unit Owner's Grant of Easement. By acceptance of a deed of conveyance, each Unit Owner thereby grants a right of access to, over, and through the Unit Owner's Unit, including, without limitation, the right of access provided by Section 703.32 of the Act, to the Board of Directors and the Managing Agent, their respective agents and employees, for the purpose of exercising their respective powers and responsibilities; provided, however, that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the Unit Owner and further provided that such entry will not interfere with the operation of business in any portion of Unit 2.

10.7. Parking, Driveway, Pedestrian Mall and Retail Access Easement.

(a) Easements are hereby granted for the benefit of the Declarant, Unit Owners and the Association, and their respective successors and assigns, for their use and for the use of all tenants, licensees, subtenants, mortgagees and concessionaires thereof, from time to time, and all officers, directors, employees, agents, contractors, customers, vendors, suppliers, visitors, and invitees of the foregoing ("*Permittees*"), in common with others entitled to use the same, a non-exclusive easement for the passage of pedestrians and vehicles over and across the driveway areas and Surface Parking Lot (but expressly *excluding* the Underground Parking Structure) located on the Units and Common Elements for the purpose of parking vehicles of Permittees. Notwithstanding anything to the contrary, the Owner of each Unit shall require that the employees of any tenant or occupant of any portion of the Property subject to this Declaration park only in areas designated as "employee parking" from time to time.

(b) Easements are hereby granted for the benefit of the Unit Owners and the Association, and their respective successors and assigns, for their use and for the use of tenants, licensees, subtenants, mortgagees and concessionaires thereof, from time to time, and all officers, directors, employees, agents, contractors, customers, vendors, suppliers,

visitors, tenants and invitees of the foregoing in common with others entitled to use the same, consisting of a non-exclusive easement for the passage of pedestrians over and across the pedestrian areas of Unit 1, Unit 2, and the Common Elements (excluding the Underground Parking Structure and Residential Limited Common Elements which are for the exclusive use of the officers, directors, employees, agents, contractors, customers, vendors, suppliers, visitors, tenants and invitees of the Owners of Unit 1).

(c) Easements are hereby granted for the overhang of awnings and related architectural features affixed to the Buildings into the pedestrian areas of each Unit so long as such awing or feature does not interfere with the access to or use of the pedestrian areas or other portions of the Unit.

10.8. The Declarant or the Association, as applicable, shall, at its sole cost and expense, ensure that driveways, access points and surface parking remain accessible and unmodified, without approval from the other Unit Owners.

10.9. Declarant's Easement. The Declarant, for itself and for its successors, assigns, employees, and agents, hereby reserves a perpetual and non-exclusive easement on, over, and through any and all common hallways, stairs, elevators, walkways, ramps, or drives at any time a part of the Condominium for pedestrian and vehicular ingress and egress into and from any and all portions of the Condominium, and for purposes of constructing stairs, walkways, ramps, drives, or any other similar form of ingress or egress, on, over, and through any portion of the Condominium, except portions occupied by structural improvements. In the exercise of any rights hereunder, there shall be no unreasonable interference with the use of any Unit or the Common Elements for the purposes for which each is reasonably intended. Declarant's easement shall continue until Declarant no longer owns a Unit.

10.10. Governmental and Utility Easements. The Declarant, for itself and for its successors, assigns, employees, and agents, hereby reserves a right to grant easements to governmental entities and utilities on, over, and through any of the Common Elements that are necessary or desired for the development, construction, maintenance, repair, or restoration of the Building. In the exercise of any rights hereunder, there shall be no unreasonable interference with the use of any Unit or the Common Elements for the purposes for which each is reasonably intended. Declarant's reservation of rights shall continue until Declarant no longer owns a Unit at which time Declarant may thereafter assign such reservation of rights to the Association.

10.11. Binding Effect. All easements and rights described herein are granted and reserved to, and shall inure to the benefit of and be binding on the undersigned, their successors and assigns, and on all Unit Owners, tenants, purchasers, and Mortgagees and their heirs, executors, administrators, successors, and assigns.

10.12. Encroachments. In the event, by reason of construction, reconstruction, settlement, or shifting of any Building, or the design or construction of any Unit, any part of the Common Elements shall at any time encroach upon any part of any Unit, or any part of any Unit shall at any time encroach upon any part of the Common Elements or any Unit shall at any time encroach upon part of any other Unit, an easement for the continuation and maintenance of such encroachment is hereby established and shall exist for the benefit of such encroaching Unit or

Common Element so long as all or any part of the applicable Buildings, Unit, or Common Element shall remain standing; provided, however, that in no event shall an easement for any encroachment be created in favor of the Unit Owner of any Unit if such encroachment occurred due to willful and knowing conduct of said Unit Owner.

ARTICLE XI: MORTGAGES

11.1. Separate Mortgages of Units. No Unit Owner other than the Declarant shall have the right or authority to Mortgage or otherwise encumber the Property or any part thereof; provided, however, that each Unit Owner shall have the right to Mortgage or encumber any Unit owned by such Unit Owner.

11.2. Mortgagees. When a Mortgage is delivered by a Unit Owner to the Mortgagee, the Unit Owner shall simultaneously notify, in writing, the Secretary of the Association of the name and address of such Mortgagee. Upon receipt of such notice, the Secretary of the Association shall notify the insurer of the Mortgagee's name and address.

11.3. Roster of Mortgagees. The Board of Directors shall maintain a roster of Mortgagees from information received by the Unit Owners. The roster shall state the name and address of each Mortgagee. Upon written request of the Board of Directors, each Mortgagee shall advise the Association as to the priority of its lien on the Unit, excluding any Mortgagee of Declarant.

11.4. Liens. The liens for Assessments, charges, fines, or penalties created under the Act or pursuant to the Declaration or the Bylaws upon the Unit shall be subject and subordinate to and shall not affect liens for general and special taxes, all unpaid sums on a Mortgage recorded prior to the making of the Assessment, mechanic's liens filed prior to the making of the Assessments and all unpaid sums on any loan made by the Veterans Administration under Chapter 45 of the Wisconsin Statutes, as the same is amended from time to time.

11.5. Restrictions on Actions of Association. The Association may not take any of the following actions:

- (a) encumber the Common Elements; or
- (b) assign the future income of the Association, including its right to receive any Assessments.

No provision contained herein shall be deemed to limit the Association's power to grant any non-exclusive easements over the Common Elements, provided that same do not operate to limit or otherwise adversely affect the use of such easements by the Unit Owners.

11.6. Application and Effect. The provisions of this Article XI shall supersede any inconsistent provision or provisions of this Declaration or the Bylaws; provided however, that said provisions shall not be deemed to limit or expand the following:

(a) the right granted to the Declarant to subdivide or relocate the boundaries of Units (except Unit 2); and/or

(b) the rights of any Unit Owner or Mortgagee with respect to matters solely affecting such Unit and/or Mortgage.

11.7. Amendment to Declaration. No amendment to this Declaration shall affect the rights of a Mortgagee whose interest was recorded prior to the recordation of any such amendment, unless the Mortgagee consents in writing to the amendment.

11.8. Priority of First Mortgagees. Except as otherwise provided by the Act, no provision of this Declaration or the Condominium Documents shall be construed to grant to any Unit Owner, or to any other party, any priority over any rights of holders of first Mortgages pursuant to their first Mortgages in case of the distribution to Unit Owners of insurance proceeds or condemnation awards for losses to or a taking of Units, the Common Elements, both, or any portions thereof.

ARTICLE XII: INSURANCE

12.1. Insurance. The Association shall maintain fire and broad form extended coverage insurance on the Buildings including the walls and structure of the Buildings located within Units and the Common Elements, including, but not limited to any fixtures owned by the Association and the Unit Owners (but excluding the personal property of the Unit Owner), in an amount not less than the replacement value of the Buildings and the walls and structure of the Buildings located within Units and the Common Elements and fixtures owned by the Association and Unit Owners from time to time; including endorsements for automatic changes in insurance coverage as fluctuating values may warrant, contingency endorsements covering nonconforming use and a Special Condominium Endorsement. To the extent reasonably possible, the insurance shall provide (i) that the insurer waives its rights of subrogation as to any claim against the Unit Owners, the Association, the Board of Directors and their respective servants and agents, and (ii) that the insurance cannot be canceled, invalidated or suspended on account of the conduct of any one or more of the Unit Owners, or the Association, or their servants, agents and guests, without sixty (60) days prior written notice to the Association and which notice gives the Association an opportunity to cure the defect within that time. All required insurance shall be issued by an insurance company with a minimum of a B general policyholder's rating and of a class III financial size category in the Best's Key Rating Guide. The Association shall seek at least two(2) bids, with the Owner of Unit 2 having the option to obtain a bid from its preferred vendor. Upon selection of the insurance, the Association shall notify the Owner of Unit 2 and the Owner of Unit 2 shall have fifteen (15) days to notify the Association that it is opting out of the insurance acquired by the Association. If the Owner of Unit 2 opts out, it shall provide evidence of insurance acceptable to the Association and any mortgagee within thirty (30) days of opting out. If the Owner of Unit 2 does not acquire satisfactory insurance within such time frame, the Association shall purchase the insurance it initially selected and the cost of such insurance shall be a Common Expense. If the Owner of Unit 2 does acquire satisfactory insurance, then it shall pay for its insurance and its assessment of the insurance attributable to the Common Elements only. The amount of protection and the types of hazards to be covered shall be reviewed by the Association at least annually and

the amount of coverage may be increased or decreased at any time it is deemed necessary by the Association to conform to the requirements of replacement value insurance. Any Mortgagee may receive an insurance certificate upon ten (10) days prior written notice. The insurance shall be obtained in the name of the Association as trustee for each of the Unit Owners and their respective Mortgagees.

12.2. Proceeds of Insurance. In the event of partial or total destruction of the Buildings and/or the Common Elements, and the Association determines to repair or reconstruct the Buildings and/or the Common Elements according to Article IX hereof and Section 1 of Article X of the Bylaws, the proceeds of such insurance shall be paid to the Association as trustee to be applied to the cost of repairing and reconstructing the Buildings and/or the Common Elements, or portions thereof that were damaged. If it is determined (according to Section 9.1 of this Declaration and Article X of the Bylaws) not to reconstruct or repair the Buildings and/or Common Element, then the proceeds shall be distributed according to Section 9.1 of Article IX hereof and Article X of the Bylaws.

12.3. Public Liability Insurance. The Association shall provide public liability insurance covering the Common Elements in such amounts as may be determined at the discretion of the Board of Directors from time to time; provided, however, the amount of coverage shall not be less than One Million Dollars (\$1,000,000.00) per single occurrence. The insurance coverage shall preclude the insurer's denial of a Unit Owner's claim because of the negligent acts of the Association or any Unit Owner. The Association may also provide workmen's compensation insurance, directors, and officers, liability insurance in such amounts as are determined by the Board of Directors to be necessary from time to time.

12.4. Fidelity Bonds. The Association may provide a blanket fidelity bond for anyone who either handles or is responsible for funds held or administered by the Association. The bond shall name the Association as obligee and shall cover the maximum funds that will be in the custody of the Association. In no event shall the face value of the bond be for an amount less than the sum of three (3) months' Assessment plus any reserve funds held by the Association. The bond shall include a provision that calls for ten (10) days' written notice to the Association, the Unit Owner and any Mortgagee before the bond can be canceled or substantially modified. Any management agent that handles funds for the Association shall carry a fidelity bond with the same coverage as stated above.

12.5. Separate Insurance. Each Unit Owner shall be responsible for obtaining liability insurance for the Unit Owner's Unit and casualty insurance for the personal property of the Unit Owner.

ARTICLE XIII: BOUNDARY RELOCATION; SUBDIVISION; PARTITION

13.1. Relocation of Boundaries Between Adjoining Unit. Any Owners of adjoining Units may relocate the boundaries between their Units in accordance with the provisions of Section 703.13(6) of the Act and Section 5.4 of this Declaration. As provided in such Section of the Act, such subdivision shall become effective only upon the recording of (i) an amendment to this Declaration identifying the Units involved; stating that the boundaries between said Units are being

relocated by agreement of the Unit Owners thereof; containing words of conveyance between those Unit Owners; reflecting any redetermination of the Assessment Interest and Assessment Interest appertaining to said Units, as agreed to by the adjoining Unit Owners; and reflecting any liabilities for future common expenses not specially assessed appertaining to said Units; and (ii) an amendment to the Condominium Plat showing the altered boundaries and the dimensions thereof between said Units and their identifying number or letters, which shall be certified as to its accuracy by a civil engineer, architect or licensed land surveyor authorized to practice his or her profession in the State of Wisconsin.

13.2. Subdivision and Combination of Units. Declarant may divide any portion of Unit 1, from time to time, in Declarant's sole discretion, into not more than two (2) Units in accordance with the provisions of Section 703.13(7) of the Act. As provided in such Section of the Act, such subdivision shall become effective only upon the recording of: (i) an amendment to this Declaration setting forth a new identifying number for each new Unit created and redetermination acceptable to the Board of Directors of the Assessment Interest and Assessment Interest appertaining to said Units and allocation of one (1) vote in the Association appurtenant to each Unit affected; and (ii) an amendment to the Condominium Plat showing the boundaries and dimensions of the new Units and any new identifying numbers, which shall be certified as to its accuracy by a civil engineer, architect, or licensed land surveyor authorized to practice his or her profession in the State of Wisconsin. The aggregate Assessment Interests of newly created Units shall equal the Assessment Interests of the original Unit prior to subdivision.

Any Unit Owner or Owners may combine two or more Units, from time to time, at their sole cost and expenses, into one or more Units in accordance with the provisions of Section 703.13(6) of the Act and Sections 2.4 and 5.4 of this Declaration, provided the resulting number of Units created is less than the number of Units combined, and provided that each resulting Unit shall have one (1) vote in the Association. The aggregate Assessment Interests of newly created Units shall equal the Assessment Interest of the original Units prior to combination.

13.3. No Revocation or Partition. Except as otherwise set forth herein or in the Bylaws, the Common Elements shall remain undivided and no Unit Owner or any other person shall bring or have the right to bring any action for partition or division thereof, nor shall the Common Elements be abandoned by act or omission, unless the Condominium form of ownership is waived and terminated by agreement of all of the Unit Owners.

13.4. Declarant's Rights and Control. Declarant reserves the right to change the design of any of the Buildings, Units, and Common Elements to be constructed on the Property, provided that Declarant shall first receive approval thereof from the Owner of Unit 2. Except in relation to Unit 2, the Declaration may be amended by Declarant to change the types of Units prior to the actual conveyance of any such Unit and Declarant shall have the right to change the location of any Parking Stall.

13.5. Expansion of Condominium. Intentionally omitted.

ARTICLE XIV: DISCLAIMER OF LIABILITY OF ASSOCIATION

14.1. Disclaimer. Notwithstanding anything contained herein or in the Condominium Documents, the Association shall not be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Unit Owner, occupant or user of any portion of the Property including, invitees, agents, servants, contractors or subcontractors or for any property of any such persons. Without limiting the generality of the foregoing, each Unit Owner and each other person having an interest in or lien upon, or making a use of, any portion of the Property shall be bound by this Article XIV and shall be deemed to have automatically waived any and all rights, claims, demands and causes of action against the Association arising from or connected with any matter for which the liability of the Association has been disclaimed in this Article XIV.

14.2. Personal Property. Each Unit Owner shall be responsible for personal property located in any Parking Stalls, or Limited Common Elements. Notwithstanding anything to the contrary contained in this Declaration, neither the Board of Directors, the Association, any Unit Owner nor the Declarant shall be: (i) considered a bailee of any personal property of a Unit Owner stored in the Common Elements or Residential Limited Common Elements (including without limitation, property located in any vehicles parked on the Property); or, (ii) responsible for the security of such personal property or for any loss or damage thereto.

ARTICLE XV: AMENDMENT TO DECLARATION

15.1. Amendment. Except as otherwise provided by the Act, or in this Declaration, this Declaration may be amended by the agreement of Unit Owners having at least two-thirds (2/3) of the votes in the Association and in the manner provided by Section 703.09(2) of the Act; provided that, notwithstanding anything to the contrary, in no event shall any amendment to this agreement be effective unless and until same is approved in writing by the Owner of Unit 2. Any Unit Owner whose Unit is subject to a Mortgage shall first obtain such Mortgagee's written consent to the Unit Owner's vote in favor of any amendment on a form satisfactory to the Board of Directors. Copies of amendments shall be certified by the President and Secretary of the Association in a form suitable for recording. A copy of the amendment shall be recorded in the office of the Register of Deeds of Milwaukee County and such amendment shall be effective at the time it is recorded. A copy of the amendment shall be mailed or personally delivered to each Unit Owner's address as stated on the Membership Roster. So long as the Declarant owns one (1) or more Units, this Declaration shall not be amended in any manner that would prevent or unreasonably interfere with the sale, lease or other disposition of Units owned by Declarant.

15.2. Special Amendments. Declarant, for as long as the Declarant shall have any ownership interest in the Property or Condominium, or, when the Declarant no longer has an interest in the Property or Condominium, the Board of Directors, shall have the right and power to record Special Amendments to this Declaration at any time and from time to time which amend this Declaration: (i) to comply with requirements of any governmental entity or any institutional lender issuing a commitment to make Mortgage loans covering twenty percent (20%) or more of the Units; (ii) to induce any of such entities to make, purchase, sell, insure, or guarantee Mortgages secured by any Unit; (iii) to conform this Declaration with the requirements of the Act; (iv) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement

or amendment thereto; or, (v) to assign the Declarant's ownership interest in the Property to another entity of its choosing, or to assign Declarant's interest as Declarant to any Mortgagee of the Property, provided that no such Special Amendments shall increase the costs or obligations of the Owner of Unit 2 or reduce the obligations of the Declarant or Association. The rights reserved to the Declarant under this Section 15.2 shall terminate at such time as the Declarant no longer holds or controls title to any part of the Property or six (6) years from the date this Declaration is recorded, whichever first occurs.

15.3. Amendments Affecting Commercial Units. Notwithstanding anything to the contrary in the Condominium Documents, any proposed Amendment to this Declaration that affects the operation, use, ownership, or development of a Commercial Unit must be approved in writing by the Commercial Unit Owner or Commercial Unit Owners (as applicable) of such Commercial Unit or Commercial Units affected thereby in order for such Amendment to this Declaration to be effective. Any such Amendment that is not approved in writing as required in this Section 15.3 shall be null and void and of no force and effect.

15.4. Amendments Affecting Residential Units. Notwithstanding anything to the contrary in the Condominium Documents, any proposed Amendment to this Declaration that materially affects the operation, use, ownership, or development of the Residential Unit must be approved in writing by the Residential Unit Owner affected thereby in order for such Amendment to this Declaration to be effective. Any such Amendment that is not approved in writing as required in this Section 15.4 shall be null and void and of no force and effect.

ARTICLE XVI: TERMINATION OF CONDOMINIUM

The Condominium may be terminated upon the approval of a Termination Agreement by all the Unit Owners. Any Unit Owner whose Unit is subject to a Mortgage shall first obtain such Mortgagee's written consent to the vote. The Termination Agreement shall include provisions relating to the use and maintenance of Common Elements. The Termination Agreement shall also provide for the allocation and transfer of title to the Common Elements such that title to the Common Elements shall be vested in the successors to the Unit Owners as tenants-in-common in proportion to their predecessor Unit Owner's Assessment Interest, except that title to Limited Common Elements and Residential Limited Common Elements shall be vested in the former Unit or Units to which they appertain, individually or as tenants-in-common, as the case may be. The Termination Agreement shall be recorded in the office of the Register of Deeds for Milwaukee County.

ARTICLE XVII: ADDITIONAL PROVISIONS

17.1. Claims; Dispute Resolution.

(a) **Definition of a Claim.** A "Claim" is a demand or assertion by a party seeking, as a matter of right, adjustment, or interpretation of terms, payment of money, or other relief with respect to the terms of the Condominium Documents. The term "Claim" also includes other disputes and matters in question between any Unit Owner and Declarant, between Declarant and the Association, between the Association and any Unit

Owner or between any Unit Owner and another Unit Owner arising out of or relating to the Condominium or the Condominium Documents. For purposes of this Section 17.1, the term "Declarant" shall include Declarant and Declarant's officers, directors, agents or employees. Notwithstanding the foregoing or anything to the contrary herein, this Section 17.1 shall not be construed to affect, alter, or in any way limit or apply to (i) the formulation, levying, payment, collection, or enforcement of Assessments or liens therefor, as set forth herein or the Bylaws, or any other payment or fee required, or (ii) remedies against a Unit Owner for violation of the Declaration, Bylaws, or the Act; and all provisions of the Condominium Documents other than this Section 17.1 shall control in such matters.

(b) **Procedure for Making Claims and Burden of Proof.** Claims must be made by written notice to the other interested party or parties hereto. The responsibility to substantiate Claims shall rest with the party making the Claim.

(c) **Time Limits on Claims.** Claims by any party must be made within forty-five (45) days after occurrence of the event giving rise to such Claim or within forty-five (45) days after the claimant first recognizes the condition giving rise to the Claim, whichever is later; provided, however, that the claimant shall use its best efforts to furnish the other party, as expeditiously as possible, with notice of any Claim once such Claim is recognized, and shall cooperate with the party against whom the Claim is made in any effort to mitigate the alleged or potential damages or other adverse consequences arising out of the condition that is the cause of such a Claim. Any additional Claim related to the initial Claim that is made after the initial Claim has been implemented will not be considered. Claims may also be reserved in writing within the time limits set forth in this Section 17.1(c). If a Claim is reserved, the procedures described in Sections 17.1(e) and (f) shall not commence until a written notice from the claimant is received by the other party. Any notice of Claim or reservation of Claim must clearly identify the alleged cause and the nature of the Claim and include data and information then available to the claimant that will facilitate prompt verification and evaluation of the Claim.

(d) **Continuing Performance.** Pending final resolution of a Claim, no party shall be excused from the performance of any obligation under the Condominium Documents.

(e) **Negotiation; Mediation.**

(1) **Negotiation.** Prior to submitting any Claim to mediation or arbitration, the parties hereto shall diligently attempt, in good faith, to settle any Claim by negotiation between all of the parties to such Claim. If the parties are unable to reach a negotiated settlement with respect to such Claim within sixty (60) days after the commencement of negotiations, the parties may continue to diligently negotiate in good faith with respect to such Claim, or, at the option of any party to

the Claim, the Claim may be submitted to mediation by written demand for mediation delivered to the other parties to such Claim. Such mediation shall be held pursuant Section 17.1(e)(2).

(2) **Mediation.** If the parties to a Claim are unable to reach a negotiated settlement with respect to any Claim pursuant to Section 17.1(e)(1), the Claim shall be submitted to mediation upon the delivery of a written demand therefore from one (1) party to the Claim to all the other parties to the Claim. Any mediation shall be conducted by a proprietary mediation service reasonably acceptable to the parties to the Claim. In the event the parties to the Claim are unable, within sixty (60) days after a written demand for mediation, to agree on a mutually acceptable mediation service, any party to the Claim may demand arbitration pursuant to Section 17.1(f) hereof. Upon selection of the mediation service by the parties to the Claim, the parties shall diligently attempt, in good faith, to settle any disputes by mediation. If the parties are unable to reach a mediated settlement with respect to such Claim within sixty (60) days after the commencement of mediation, the parties may continue to diligently mediate in good faith with respect to such Claim, or, at the option of any party to the Claim, the Claim may be submitted to arbitration by written demand therefore delivered to the other parties to such Claim. Arbitration shall be held pursuant Section 17.1(f) hereof. Section 17.1(e)(2) shall not be applicable to any Claim involving Chase.

(f) **Arbitration.**

(1) **All Controversies and Claims Subject to Arbitration.** The sole method of resolving Claims under the Condominium Documents will be by negotiation, mediation and arbitration as provided in this Section 17.1. Any controversy or Claim arising out of or related to any agreement between any Unit Owner, Declarant and the Association, shall be settled by negotiation, mediation and arbitration in accordance with this Section 17.1.

(2) **Commencement of Arbitration.** Any party to a Claim that remains unresolved after negotiation and mediation pursuant to Section 17.1(e) may commence arbitration by written demand therefor delivered to the other parties to such Claim. No Claim may be heard in arbitration if a Notice of Claim was not timely filed pursuant to Section 17.1(c), or if the Claim would otherwise be barred by an applicable statute of limitations.

(3) **Arbitration Procedures.** Except as otherwise expressly provided herein, arbitration shall be held in accordance with the applicable Arbitration Rules of the American Arbitration Association in effect from time to time.

(4) **Number and Selection of Arbitrators.** Arbitration panels shall consist of the following numbers of arbitrators, as the case may be:

(A) in the event the Claim or Claims subject to arbitration are less than or equal to an aggregate of \$200,000.00, the arbitrator shall consist of one (1) person reasonably acceptable to all parties to the Claim or Claims; or

(B) in the event the Claim or Claims subject to arbitration are more than \$200,000.00 in the aggregate, the arbitration panel shall consist of three (3) persons reasonably acceptable to all of the parties to the Claim or Claims.

In the event the parties to a Claim or Claims cannot, after thirty (30) days, agree upon on the arbitrator or arbitrators, the selection of the arbitrator or arbitrators shall be submitted to the American Arbitration Association, who shall be instructed to appoint the arbitrator or arbitrators from the American Arbitration Association's Large Complex Panel.

(5) **No Authority to Award Punitive Damages.** The arbitrator or arbitrators shall have no authority to award punitive damages nor make any ruling, finding, or award that does not conform to the terms and conditions of the Condominium Documents, the Act, and applicable law.

(6) **Award of Attorneys Fees and Costs.** The arbitrator or arbitrators are authorized to, but shall not be obligated to, award all or a part of the costs and fees, incurred by a party, including arbitration fees, administrative expenses, witness fees, and reasonable attorneys' fees as the arbitrator or arbitrators shall deem to be just and equitable.

(7) **Non-Disclosure.** Neither a party to a Claim nor the arbitrator or arbitrators may publicly disclose the results of any arbitration hereunder, without the prior written consent of all of the parties, except as required by law or as may be required to conform to the Condominium Documents.

(8) **Site and Timing of Hearings.** All hearings will be held at a mutually agreeable place.

(9) **Pre-Hearing Procedures.** The arbitrator or arbitrators shall order a pre-hearing exchange of information by the parties, which may include production of requested documents reasonably required by the parties, exchange of summaries of testimony of proposed witnesses, the deposition of any experts and

limited depositions of the parties. All issues regarding conformation with discovery requests shall be decided by the arbitrator or arbitrators. The arbitrator or arbitrators shall require a pre-hearing meeting between the parties at which each party shall present a memorandum disclosing the factual basis of its Claim and defenses and disclosing all legal issues to be raised. It shall also disclose the names of any expert a party may present as a witness in the proceedings. Failure to disclose such experts shall bar their testimony at the arbitration. Any reports, calculations and other data used by an expert in reaching his opinion and who is called as a witness shall be provided at least ten (10) days prior to such expert's scheduled deposition. If such reports, calculations and other data are not so presented, such reports, calculations and other data shall be precluded from being used at any arbitration.

(10) **Compensation of the Arbitrators.** Payment for services of the arbitrator or arbitrators will be at the rates agreed to between the arbitrator or arbitrators and the parties to the Claim, and may include study time, panel conferences and actual hearing time. Direct expenses incurred by the arbitrator or arbitrators will be reimbursed at the actual cost incurred. Billing for such expenses shall be submitted within thirty (30) days of the conclusion of arbitration and shall include an itemized listing supported by copies of the original bills, invoices and other relevant supporting data. Unless otherwise awarded by the arbitrator or arbitrators pursuant to Section 17.1(f)(6) hereof, each party to or included in any Claim submitted to arbitration shall bear an equal share of the costs incurred by the arbitrator or arbitrators with respect to the subject Claim.

(11) **Legal Relations.** The parties hereto agree that the arbitrator or arbitrators, in the performance of their duties, are acting in the capacity of an independent contractor and are not employees or agents of any party hereto.

(12) **Joinder or Consolidation.** Any arbitration hearing shall include by way of joinder or consolidation, any Unit Owner, contractor, developer, architect, subcontractors or separate contractors, and any other persons substantially or materially involved in a common question of fact or law if the presence of any such person is required in order that complete relief may be accorded in arbitration. The agreement to arbitrate and this agreement of joinder shall be specifically enforceable under Wisconsin State law and venue therefore shall be in any court having jurisdiction thereover and sitting in Milwaukee County, Wisconsin.

(13) **Finality of Award.** The Award rendered by the arbitrator or arbitrators shall be final and binding upon the parties.

(14) **Written Opinion.** The award of the arbitrator or arbitrators shall be accompanied by a written, reasoned opinion and shall be rendered no later than thirty (30) days from the date the subject arbitration is formally closed.

(15) **Applicability of Section 17.1(f).** Section 17.1(f) shall not be applicable to any Claim involving Chase.

17.2. Waiver. The failure of the Association or any Unit Owner to enforce any provision of this Declaration or any provision in the Condominium Documents or to exercise any right or option or to serve any notice or to institute any action, shall not be construed as a waiver by the Association or Unit Owner.

17.3. Severability. The provisions contained herein shall be construed as independent and severable and the invalidity or unenforceability of any provision or portion thereof shall not be deemed to impair or affect the validity or enforceability of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect. Any conflict between any provision of any Condominium Document and the Act, or any questions regarding the interpretation of any Condominium Documents, shall be governed by the Act.

17.4. Captions. The captions and headings of various paragraphs of this Declaration are for convenience only and are not to be construed as defining or limiting the scope or intent of the provisions thereof.

17.5. No Obligations. Nothing contained in the Condominium Documents shall be deemed to impose upon the Declarant or its successors or assigns any obligations of any nature to build, renovate or provide any improvements except to the extent required by the Act and as set forth in this Declaration.

17.6. Number and Gender. Whenever used herein, the singular number shall include the plural, the plural the singular and use of any gender shall include all genders.

17.7. [Registered Agent]. The registered agent for service of process on the Declarant shall be _____, Attention: _____, _____, Wisconsin _____, or such other person or entity as may be designated by the Board of Directors of the Association and upon proper filing of said name with the Register of Deeds for Dane County, Wisconsin, and with the Department of Financial Institutions of the State of Wisconsin.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed as of the date first set forth above.

VILLAGE ON MAIN, LLC

a Wisconsin limited liability company

By: Jon Atlas, Authorized Agent

STATE OF WISCONSIN)
) ss
COUNTY OF _____)

Personally came before me this ____ day of _____, 2022, the above-named Jon Atlas the Authorized Agent of Village on Main, LLC and to me known to be the people who executed the above and foregoing instrument and acknowledged the same.

Notary Public, _____ County
My Commission expires: _____

ARTICLE XVIII: CONSENT OF MORTGAGEE

We, the undersigned, as Mortgagees of the Declarant, hereby consent to the foregoing condominium declaration for _____ Condominium, to be created in _____, Wisconsin.

Dated this _____ day of _____, 2022.

By: _____

Title: _____

EXHIBIT A

PROPERTY

Lot 2, Certified Survey Map 7306, recorded in Vol. 37 of Certified Survey Maps, page 175, as #2551825, in the Village of Waunakee, Dane County, Wisconsin.

EXHIBIT B

PLAT

EXHIBIT C

ASSESSMENT INTERESTS AND SPECIAL ASSESSMENT INTEREST

A. Assessment Interests. The percentages set forth below in the table are each Unit's and its Owner's percentage share of responsibility for Special Assessments. The percentages are determined by dividing the total square footage of a Unit by the total square footage of the floors of the Units in the Condominium. Unit 1 contain _____ square feet. Unit 2 contains _____ square feet. The total square feet on the condominium floors is _____.

<u>UNIT NUMBER</u>	<u>ASSESSMENT INTEREST</u>
Unit 1	_____
Unit 2	_____

B. Special Assessment Interests. The percentages set forth below in the table are each Unit's and its Owner's percentage share of responsibility for Special Assessments. The percentages are determined by dividing the total square footage of a Unit by the total square footage of the floors of the Units in the Condominium. Unit 1 contain _____ square feet. Unit 2 contains _____ square feet. The total square feet on the condominium floors is _____.

<u>UNIT NUMBER</u>	<u>SPECIAL _____ ASSESSMENTS PERCENTAGES</u>
Unit 1	_____
Unit 2	_____